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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,029	03/12/2004	Sahn Lam	5693P050	6713
48102	7590	09/25/2007		
NETWORK APPLIANCE/BLAKELY 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER JEAN, FRANTZ B	
			ART UNIT	PAPER NUMBER
			2154	
			MAIL DATE	DELIVERY MODE
			09/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/799,029	LAM ET AL.	
	Examiner	Art Unit	
	Frantz B. Jean	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-127 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action in response to application for patent filed on 03/12/04. Claims 1-27 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by
Therrien et al. (hereinafter Therrien) US publication number 2004/0093555 A1.

As per claims 1 and 13, Therrien teaches a manager server (par 0027 and 0029) comprising:

A network adapter to connect the manager server to a network (fig 6-7), the network including a plurality of storage servers (fig 3, multiple file servers), the plurality of storage servers implementing a plurality of data replication relationships (fig 4, items 14 and 15 discuss replication; see also, par 0029 and 0069); and a storage facility to contain a data structure representing the plurality of data replication relationships to enable a user to centrally manage the plurality of data replication relationships (par 0029 and 0069; par 0036).

As per claims 2 and 14, Therrien teaches a user that centrally manage the plurality of data replication relationships by allowing the user to apply one of a plurality of replication policies to each data replication relationship (fig 4 discusses replication relationship; see par 0033).

As per claims 3 and 15, Therrien teaches a data source and a data destination, and at least one replication policy comprises an update schedule that specifies how often the data source should be replicated at the destination (par 0029, 0035, 0039).

As per claims 4 and 16, Therrien teaches a throttle that specifies an amount of bandwidth that a schedule data replication can consume (capacity rebalancing, par 0067).

As per claims 5 and 18, Therrien teaches update data replication relationships implemented by the plurality of storage servers based on the replication policy applied to each data replication relationships (par 0029, 0035, 0039).

As per claims 6 and 17, Therrien teaches update based on changes in data replication relationships implemented by plurality of storage servers (par 0029, 0035, 0039).

As per claims 7 and 19, Therrien discloses a database (repository, fig 1 and 3).

As per claim 8, Therrien teaches a graphical user interface (par 0023).

As per claim 9, Therrien teaches allowing a user author replication policies that can be applied to one or more of the plurality of data replication relationships (fig 4, elements 14, 15).

As per claim 10, Therrien discloses file servers (fig 2-3).

As per claim 11, Therrien teaches a method comprising:

Creating a replication policy that specifies one or more attributes of a data replication transfer (fig 4, elements 14 and 15 discuss replication policy; furthermore, regarding attributes, they are inherent or part of the replication because once an item is reproduced it must have the same attribute with the original item); and applying the replication policy to a plurality of data replication relationships being implemented by a plurality of storage servers (see par 0029, 0035, 0039).

As per claim 12, Therrien teaches associating the replication policy to a plurality of data replication relationships in a data structure stored in a central storage facility (par 0029 and 0069; par 0036).

As per claims 20-27, they contain the same limitations as discussed in claims 1-10 above. Therefore, they are rejected under the same rationale.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2154

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Frantz Jean



FRANTZ B. JEAN
PRIMARY EXAMINER